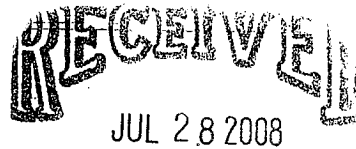


July 24, 2008

Office of General Council
Appeal of Enforcement Order
TDEC-OGC
401 Church Street
20th Floor L&C Tower
Nashville, TN 37243-1534



DEPT OF ENVIRONMENT AND CONSERVATION
OFFICE OF GENERAL COUNSEL

RE: DIRECTOR'S ORDER # WPC08-0164 CEDAR VALLEY TOWN HOMES

Dear Sirs,

I am writing to request a review of subject order as per "Notice of Right to Appeal". I have spoken by phone to Mr. Mike McClelland (on 7/22/08) and explained the facts that I will detail here.

1) The inspection report (of 7/8/08) notes that "NOC notice of coverage not posted". Subject NOC notice was and is present at the site. The notice, along with SWPP Plan (Book) inspection reports/rain collection data, etc. are in a gazebo enclosure at the site (please see enclosed photos). The gazebo was located at the entrance to the project but was recently moved so paving of the entrance road could be done. Since this was Mr. McClelland's first visit to the site, I assume he did not realize the permits were in the gazebo. I also assume that no one was there to tell him where the NOC notice was posted. My phone number is in many places at the site and on all applications. This is a cell phone carried and answered anytime.

2). Silt Fence

The silt fence in question (there are others not in question) is along cedar creek. There was a good deal of confusion over this section of silt fence from the time it was put in place. The construction that would have required the silt fence was completed some months ago (Building "A"-now occupied by homeowners). After Building A was completed, the grading contractor moved a large pile of top soil to an area close to Cedar Creek, to be used later in the construction of Bldg. "B". Someone with the City of Bristol, TN (not TDEC) noticed the pile of dirt and thought there might be some possibility of run-off from this pile of dirt into the creek, even though a buffer had been graded to run any rain water away from the

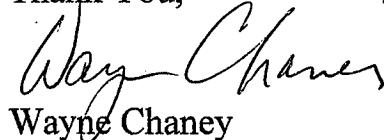
creek. Therefore, the City of Bristol suggested a Silt Fence.

Since the 7/8/08 inspection the pile of top soil has been utilized and totally removed (see flat area in photos along creek). The area has been seeded, strawed, fertilized, and should have green grass within ten days. If there was some question before as to a Silt Fence being required, there should be none now.

I have moved the NOC notice to a sign Post on Weaver Pike and have told the two contractors working the site where the notice is. All other permits are still in the gazebo, which we still move from place to place to accommodate construction in progress.

I will see to it that the Silt Fence in question is properly installed if it is required. I really want to do whatever it takes to comply with your requirements (and all others as well); however, I am requesting that you reconsider this assessment and any penalty based on these facts. Please advise me of your decision.

Thank You,



Wayne Chaney
Cedar Valley Town Homes
224 Greenway Dr.
Bristol, TN 37620
Phone: 423-416-1971

cc: Mr. Mike McClelland, WPC-Johnson City, TN



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF WATER POLLUTION CONTROL
401 CHURCH STREET
L&C ANNEX 6th FLOOR
NASHVILLE, TN 37243-1534

July 14, 2008

Wayne Chaney
224 Greenway Road
Bristol, Tennessee 37620

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
RECEIPT # 7007 2560 0003 3385 9668

Subject: DIRECTOR'S ORDER NO. WPC08-0164
CEDAR VALLEY CONDOMINIUMS
WAYNE CHANEY D/B/A WAYNE CHANEY
SULLIVAN COUNTY, TENNESSEE

Mr. Wayne Chaney:

Enclosed is a Director's Order and Assessment of Civil Penalty issued by Paul E. Davis, Director of the Division of Water Pollution Control, under the delegation of Commissioner James H. Fyke. Read the Order carefully and pay special attention to the NOTICE OF RIGHTS section.

If you or your attorney has questions concerning this correspondence, contact me at (615) 532-0685.

Sincerely,

Brandi M. Fisher
Enforcement and Compliance Section

cc: WPC-JC- EFO, Mike McClelland
Enforcement File
Office of General Counsel

Set place
1/2 place



Notice of
coverage
on sign

Seeded
Area
Now
Flat

DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF WATER POLLUTION CONTROL
Compliance Inspection for General NPDES Permit for Storm Water Discharges from
Construction Activities (TNR10-0000)

Construction Site Name: Cedar Valley Condominiums LAT: _____ LONG: _____
Location: Belmont Drive off Weaver Pike City: Br. 561
NPDES Permit Tracking # TNR1 60831 County: Sullivan Total Acres: _____ Disturbed Acres: 8

Name of Permittee (Developer): Wayne Chaney Phone: (____) _____
Address: 224 Greenway Rd. City: Br. 561 37620
Name of Contact: Wayne Chaney Phone: (423) 416-1971

Check List (office & field checks)	Yes	No	Comments
Has a Notice of Intent (NOI) been submitted?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Has a Notice of Coverage (NOC) been issued?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Has a SWPPP been developed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Has the SWPPP been submitted?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Have all site contractors signed the NOI?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Joe Wilkinson</u>
Have Inspection Reports been filed?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Unknown</u>
Are there erosion control measures on-site?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Is erosion control installed properly and functional?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Silt fence</u>
Is there evidence of excessive soil run-off?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Is there any impact to streams on or d/s from the site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Are there any ARAP permits required for the site?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Are there any ARAP violations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

Provided on Site	Check (✓)
Notice of Coverage for General NPDES Permit for Storm Water Discharges from Construction Activities	<u>NO</u>
Storm Water Pollution Prevention Plan (SWPPP)	<u>NO ONE ON SITE</u>
Records of Inspections and Repairs	<u>" " " "</u>

General Comments:

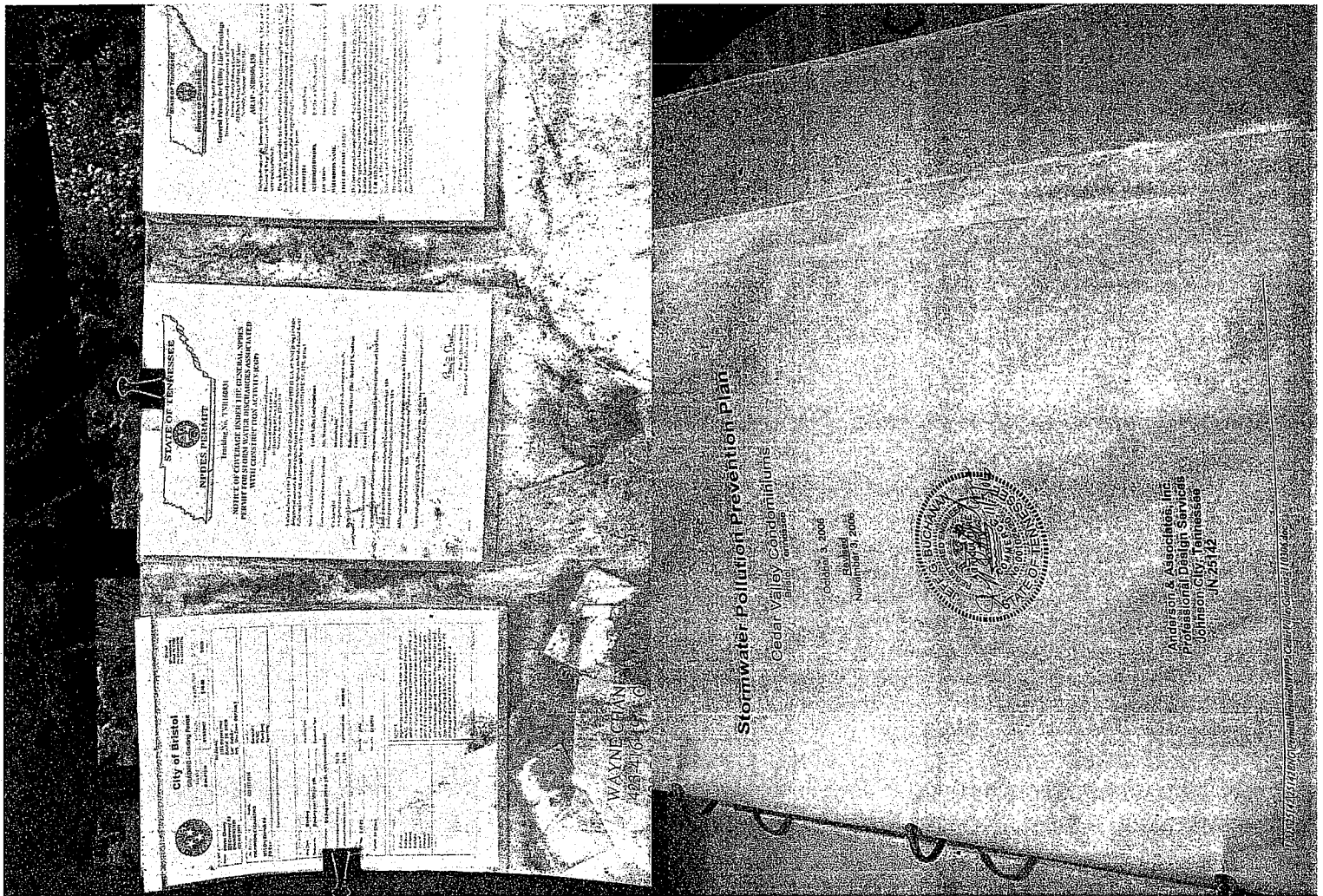
- No C Notice of Coverage not posted
- Silt fence not entrenched anywhere
- Enforcement pending

Routine	<input checked="" type="checkbox"/>	Complaint	<input type="checkbox"/>	Follow Up	<input type="checkbox"/>	Termination	<input type="checkbox"/>
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On-Site Contact
Print Name: Mike McClelland Title: _____
Signature: _____
Date: _____
Inspector Print Name: Mike McClelland Date: 7-8-00
Signature: Mike McClelland Time: 10:50
Inspector's Phone Number: 423-854-5451

2305 SILVERDALE JC 37601

TDEC



NPDES PERMIT

Tracking No. TNR160831

**NOTICE OF COVERAGE UNDER THE GENERAL NPDES
PERMIT FOR STORM WATER DISCHARGES ASSOCIATED
WITH CONSTRUCTION ACTIVITY (CGP)**

Tennessee Department of Environment and Conservation
Division of Water Pollution Control
401 Church Street, 6th Floor, L&C Annex
Nashville, Tennessee 37243-1534

Under authority of the Tennessee Water Quality Control Act of 1977 (T.C.A. 69-3-101 *et seq.*) and the delegation of authority from the United States Environmental Protection Agency under the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 (33 U.S.C. 1251, *et seq.*):

Name of the Construction Project: Cedar Valley Condominiums

Construction site Owner/Developer: Mr. Wayne Chaney

Contractor(s): no contractor
is authorized to discharge: storm water associated with construction activity

from site located at: Belmont Drive off Weaver Pike - Bristol TN, Sullivan County

to receiving waters named: Cedar Creek

in accordance with effluent limitations, monitoring requirements and other conditions set forth herein.

Likely presence of threatened or endangered species in one mile radius: YES

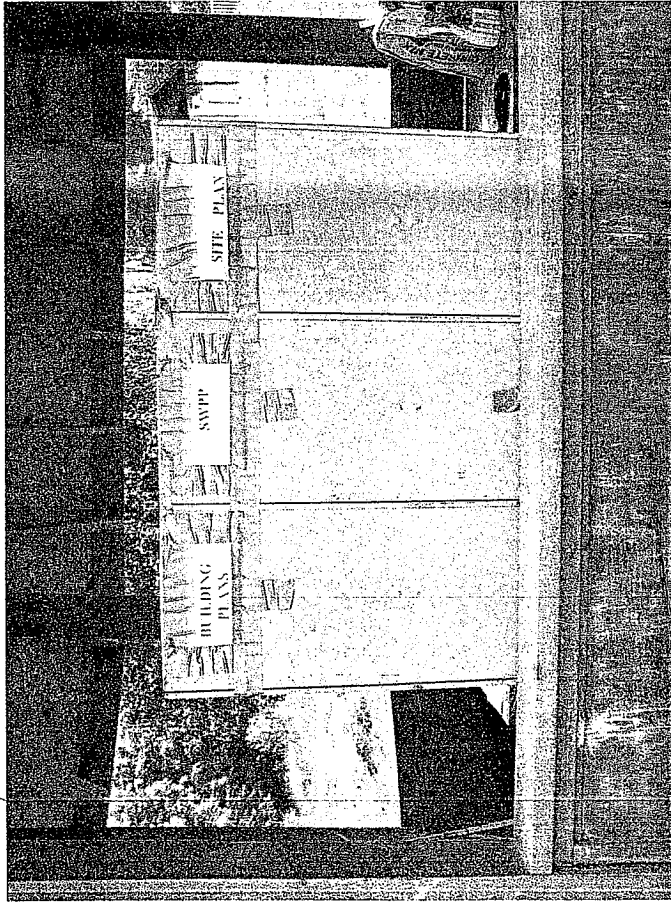
Likely presence of threatened or endangered species downstream: YES

Additional pollution prevention requirements apply for discharges into waters which TDEC identifies as:
a) impaired by siltation: YES b) discharging into high quality waters: NO

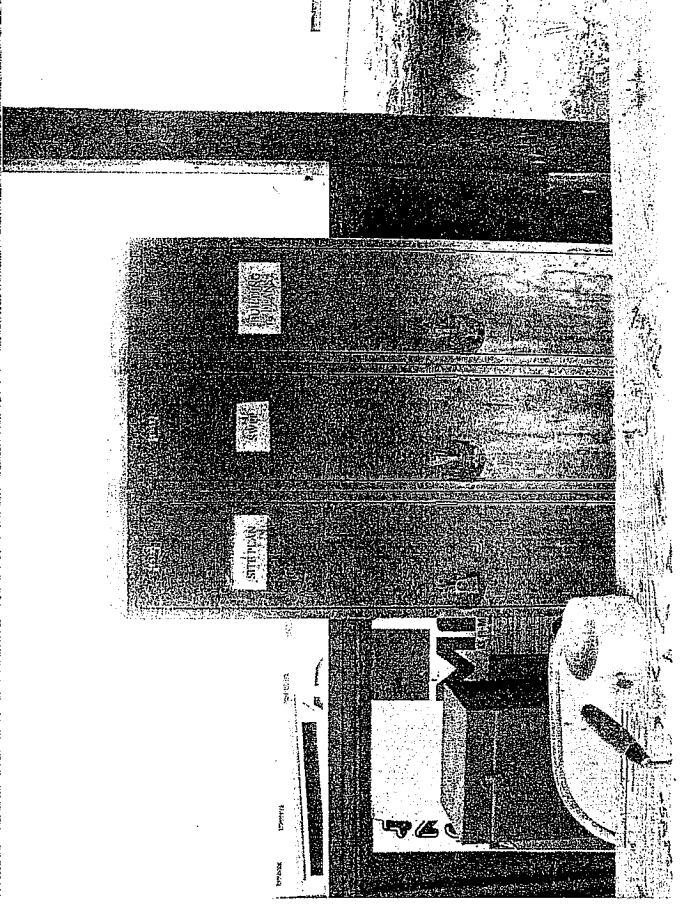
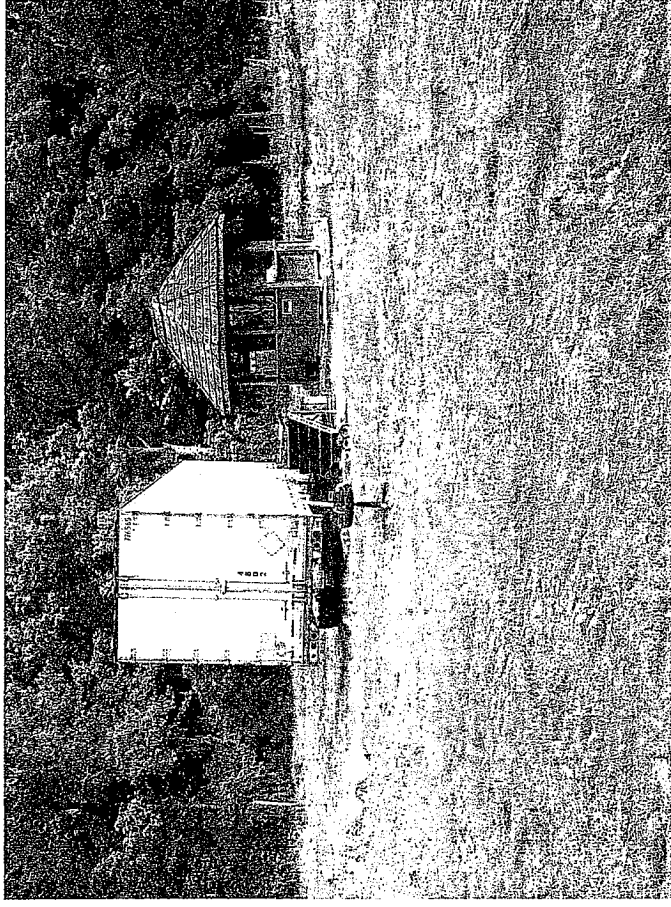
Your coverage under the CGP shall become effective on , and shall be terminated upon receipt of Notice of Termination, or the date of expiration of the CGP, May 30, 2010.

*Permit
Postcard
AT Site*

Looking Inside Gazebo



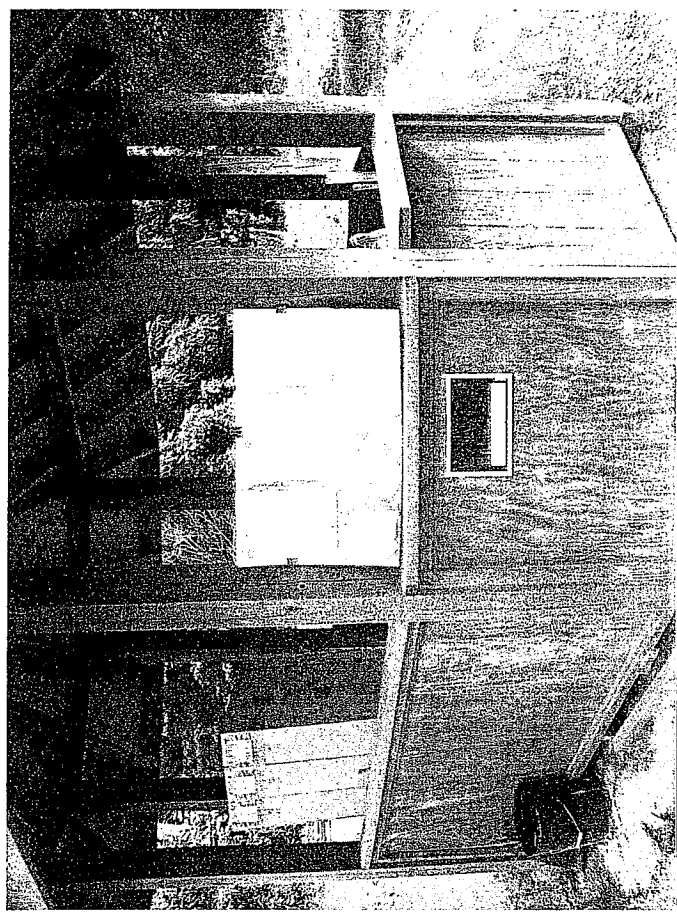
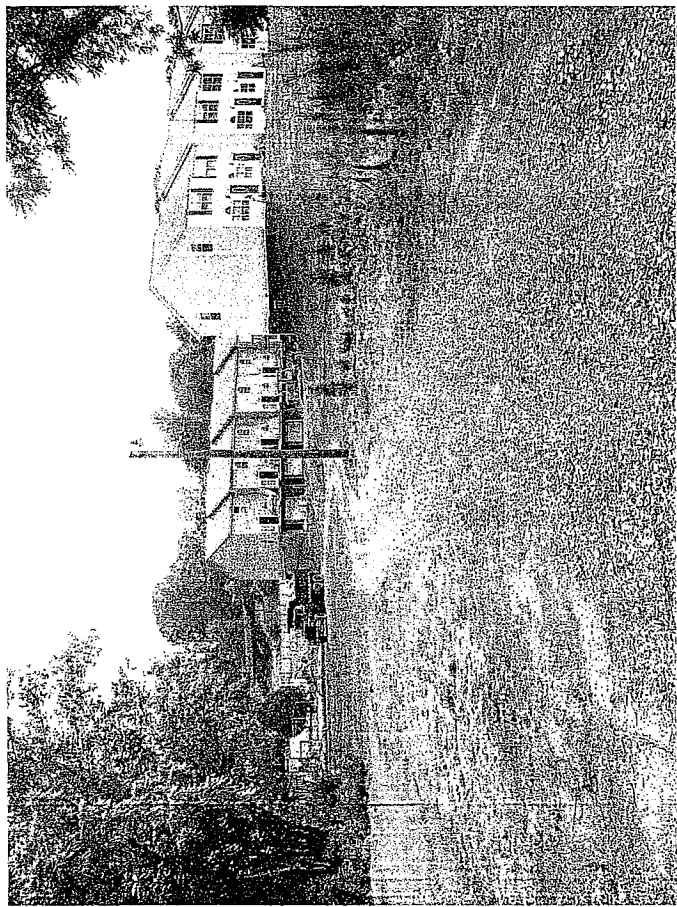
Storage Trailer & Gazebo



Inside Gazebo



Permits (including Nov 27.1 Dec 1.13)



New footing of road -
Old known like